

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6951**

**BILL NUMBER:** HB 1495

**NOTE PREPARED:** Jan 18, 2009

**BILL AMENDED:**

**SUBJECT:** Lead in Children's Products.

**FIRST AUTHOR:** Rep. VanDenburgh

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State

**Summary of Legislation:** This bill prohibits use of toxic substances in toys and child care articles. The bill requires the State Department of Health (SDH) to administer a program for the prohibition of toxic substances in toys and child care articles.

The bill also establishes civil penalties for violations. It requires a manufacturer to recall prohibited products. The bill creates the Toxic Substances in Children's Products Fund (Fund) to receive civil penalties assessed for the use of toxic substances in toys and child care articles. It also provides that money in the fund is to be used for public awareness, prevention, toxic substance testing, and children's safety programs.

The bill makes a continuous appropriation.

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** *State Department of Health-* This bill will increase the workload of the State Department of Health to inspect toy manufacturers, distributors, and retailers. The bill creates the Toxic Substances in Children's Products Fund, which is designated for use in creating public awareness of toxic substances in toys, prevention, toxic testing, and children's safety programs. SDH is responsible for providing these services and programs. Any increase in state expenditures to provide the services and programs would be covered by money contained in the fund.

SDH reports that these provisions will require additional staff and resources for enforcement. SDH estimated requiring an additional \$3.3 M per year assuming that every business location is to be inspected annually. SDH reports there are a total of approximately 4,000 businesses in the state that sell children's products.

*Attorney General-* Under the bill, SDH has the authority to either represent themselves in civil proceedings or seek representation from the Office of the Attorney General. This bill may increase the workload of the Office of the Attorney General to the extent they act on behalf of SDH in the civil proceedings.

The Office of the Attorney General currently investigates and takes necessary action when consumers file complaints regarding toy safety. Currently, consumers can report toys that contain amounts of lead. However, it was reported that there are few instances of these complaints. Any change in the number of reported instances of toys containing lead from SDH investigations may impact the workload of the Attorney General as well.

**Explanation of State Revenues:** The bill establishes the Toxic Substances in Children's Products Fund that consists of money received from appropriations, civil penalties assessed for violations of the child toy regulations, gifts, bequests, and grants. Money in the fund is nonreverting and is continuously appropriated for the purposes of the fund. State revenue and revenue designated for the Fund will increase to the extent that SDH finds violations of the toxic toy regulations and the Office of the Attorney General is successful in civil proceedings enacted against violators.

Civil fines defined in the legislation also vary depending on (1) if the violator is a manufacturer, (2) the number of itemized violations, and (3) the number of subsequent violations committed. The actual number of civil penalties assessed against violators and the amount of civil fees collected is indeterminable.

*Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

#### **Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:** Office of the Attorney General; SDH.

**Local Agencies Affected:**

**Information Sources:** Matt Light, Office of the Attorney General; Scott Zarazee, SDH.

**Fiscal Analyst:** Bill Brumbach, 232-9559.